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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA
5

6 NATIONAL RAILROAD PASSENGER) 3:11-cv-00461-HDM-VPC
CORPORATION,)

7 Plaintiff,) ORDER
8)

9 vs.)

10 JOHN DAVIS TRUCKING COMPANY,)
INC.,)

11 Defendant.)
12

13 JOHN DAVIS TRUCKING COMPANY,)
INC.,)

14 Counterclaimant,)
15

16 vs.)

17 NATIONAL RAILROAD PASSENGER)
CORPORATION, UNION PACIFIC)
RAILROAD COMPANY, and DOES 1-5,)

18 Counterdefendants.)
19

20 UNION PACIFIC RAILROAD COMPANY,)

21 Counterclaimant,)
22

23 vs.)

24 JOHN DAVIS TRUCKING COMPANY,)
INC.,)

25 Counterdefendant.)
26

27 Before the court is John Davis Trucking's ("JDT") motion in
28 limine #1 (#418) and Amtrak and Union Pacific's response thereto
(#425). JDT seeks to preclude Amtrak and Union Pacific's experts

1 from providing rebuttal testimony at trial because none of the
2 experts have produced rebuttal reports.

3 In its order of April 28, 2014, the court determined that
4 Amtrak and Union Pacific were not required to file any rebuttal
5 expert reports. The court based this ruling on the representation
6 of Amtrak and Union Pacific that they would rely only on their
7 experts previously disclosed on April 4, 2014, to rebut the
8 opinions and anticipated testimony of JDT's experts. Therefore,
9 the court concluded that rebuttal reports were not required because
10 any such reports would be redundant of the reports previously
11 disclosed to JDT. Therefore, the court's holding precludes Amtrak
12 and Union Pacific from disclosing or calling additional experts
13 without leave of court. In addition, in providing any rebuttal
14 testimony, Amtrak and Union Pacific's previously disclosed experts
15 shall be limited to the opinions and matters expressed in their
16 initial reports. Should Amtrak and Union Pacific now contend that
17 the initial expert reports are not expansive enough to rebut JDT's
18 experts, Amtrak and Union Pacific shall have until May 9, 2014, to
19 provide rebuttal expert reports by their previously disclosed
20 experts.

21 Accordingly, JDT's motion in limine #1 (#418) is **DENIED**.
22 Amtrak and Union Pacific's request for sanctions pursuant to
23 Federal Rule of Civil Procedure 37(a)(5)(B) is **DENIED** as frivolous.

24 IT IS SO ORDERED.

25 DATED: This 6th day of May, 2014.

26 
27 UNITED STATES DISTRICT JUDGE
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